MONTANA LEGISLATIVE HISTORY

Chapter 144 1985

Bill H _____ S 84 Original bill & history ____C

H. Committee on Education & Cultural Resources

Hearing Date(s) Mar 08 ✓ C

_____ ____C

_____ ____C

_____ ____C

Date Out _____ ____C

S. Committee on Education & Cultural Resources

Hearing Date(s) Jan 18 ✓ C

Jan 21 ✓ C

_____ ____C

_____ ____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Senate BILL NO. 84

INTRODUCED BY Bob Brown Mahlkenn Yellowtail
Speer Smith Nelson Tilly

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SCHOOL DISTRICT TRUSTEES TO ACQUIRE REAL AND PERSONAL PROPERTY BY LEASE-PURCHASE AGREEMENT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Trustees' authority to acquire property by lease-purchase agreement. The trustees of a district may acquire real and personal property by an agreement to lease with an option to purchase. If real property is acquired, the trustees shall comply with 20-6-603.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 20.

-End-

INTRODUCED BILL
SB 84

1/21 HEARING
2/11 TABLED IN COMMITTEE

SB 83 INTRODUCED BY FARRELL
SPECIAL CHAUFFEUR'S LICENSE TO DRIVE TRUCK OVER 44,000 POUNDS

1/10 INTRODUCED
1/10 REFERRED TO HIGHWAYS & TRANSPORTATION
1/12 FISCAL NOTE REQUESTED
1/17 FISCAL NOTE RECEIVED
2/15 FISCAL NOTE REQUESTED
2/18 FISCAL NOTE RECEIVED
2/19 HEARING
2/22 COMMITTEE REPORT-BILL PASS AS AMENDED
2/25 2ND READING PASS 43 5
2/27 3RD READING PASS 47 3

TRANSMITTED TO HOUSE
3/06 REFERRED TO HIGHWAYS & TRANSPORTATION
3/21 HEARING
DIED IN COMMITTEE

SB 84 INTRODUCED BY B. BROWN, MCCALLUM, ET AL.
ALLOWING SCHOOL DISTRICTS TO ACQUIRE PROPERTY BY LEASE-PURCHASE AGREEMENT

1/10 INTRODUCED
1/10 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/18 HEARING
1/21 COMMITTEE REPORT-BILL DO PASS
1/23 2ND READING PASS 49 0
1/25 3RD READING PASS 48 0

TRANSMITTED TO HOUSE
1/28 REFERRED TO EDUCATION & CULTURAL RESOURCES
3/08 HEARING
3/09 COMMITTEE REPORT-BILL CONCURRED
3/13 2ND READING CONCURRED 93 0
3/15 3RD READING CONCURRED 98 0

RETURNED TO SENATE
3/19 SIGNED BY PRESIDENT
3/20 SIGNED BY SPEAKER

3/21 TRANSMITTED TO GOVERNOR
3/22 SIGNED BY GOVERNOR
CHAPTER NUMBER 144 EFFECTIVE DATE: 10/01/85

SB 85 INTRODUCED BY B. BROWN, VAN VALKENBURG, ET AL.
CRIMINAL INTELLIGENCE INFORMATION UNIT
BY REQUEST OF BOARD OF CRIME CONTROL

1/10 INTRODUCED
1/10 REFERRED TO JUDICIARY
1/14 FISCAL NOTE REQUESTED
1/16 HEARING
1/19 FISCAL NOTE RECEIVED
1/22 COMMITTEE REPORT-BILL PASS AS AMENDED
1/22 STATEMENT OF INTENT ATTACHED

MINUTES OF THE MEETING
EDUCATION AND CULTURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

January 18, 1985

The third meeting of the Senate Education and Cultural Resources Committee was called to order by the Chairman, Senator Chet Blaylock, at 1:05 p.m. in Room 402, State Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SENATE BILL 84: SENATOR BOB BROWN, District 2, sponsor of the bill stated the bill simply allows school districts to acquire property by lease-purchase agreement. He stated other public entities can lease-purchase and it is necessary for school districts in this day and age to have the same option. He cited, as an example, the computer area, where purchases may be obsolete before the payment is complete. He asked Chip Erdman to present a proposed amendment from the Office of Public Instruction.

PROPONENTS: CHIP ERDMAN, Montana School Boards Association, said the amendment (Exhibit #1) is appropriate as it incorporates exceptions in site elections into the bill. He noted section 20-6-621 deals with exceptions in general land purchases. He said the bill gives a needed flexibility to school boards in purchasing real property and equipment.

BILL ANDERSON, Office of Public Instruction, said he wanted to discuss the bill with the OPI lawyer, Rick Bartos, before giving full support.

There were no further proponents and NO OPPONENTS to the bill.

DISCUSSION: SENATOR MAZUREK asked Mr. Erdman why the bill was limited to lease/purchase.

CHIP ERDMAN replied according to statute Boards can currently purchase or lease, but cannot lease/purchase.

The committee asked Lee Heiman, Legislative Council Counsel, if the proposed amendment was necessary.

LEE HEIMAN replied he felt the bill is sufficiently referenced in current statutes and it would be redundant to change it.

SENATOR REGAN moved Senate Bill 84 DO PASS.

Discussion was held concerning the proposed amendment. The Chairman felt the bill should be held until OPI can check with their attorney regarding the amendment.

SENATOR REGAN withdrew her motion.

BOB STOCKTON, Office of Public Instruction, presented a video tape on the Foundation Program.

ADJOURN: There being no further business, the meeting was adjourned.

Chet Blaylock
Senator Chet Blaylock, Chairman

jdr

ROLL CALL

SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985 Dat

NAME	PRESENT	ABSENT	E
SENATOR PINSONEAULT			
SENATOR BROWN			
SENATOR REGAN			
SENATOR SMITH			
SENATOR HAFFEY			
SENATOR YELLOWTAIL			
SENATOR MAZUREK			
SENATOR FARRELL			
SENATOR McCALLUM			
SENATOR BLAYLOCK, CHAIRMAN			

DATE 1/18/85

COMMITTEE ON Education & Cultural Resources BILL NO. SB

VISITOR'S REGISTER

NAME	REPRESENTING	Check Support
Trudi Peterson	Judith Gap Schools	✓
Pat Price	" " "	✓
Chip Erdmann	MSBA	—
Greg Fuegen	Evergreen - Kalispell	—
Sheila Cates	OPI	
Julie Dalbroglio	MontPIRG	—
Dean Tveten	MUTC	—
Jeff Dietz	Billings Vo-Tech	—
Erma Jean	Opheim Public School	✓
Mary-Jean Marron	Lolo, MT	✓

(Please leave prepared statement with Secretary)

EXHIB.
SEN. EDU
& CULT. C
JAN. 16
SB84

Proposed Amendment (OPI) for SB 84

1. Page 1, line 13.
Following: "20-6-603"
Insert: "and 20-6-621"

20-6-603. Trustees' authority to acquire or dispose of sites ar buildings — when election required. (1) The trustees of any distri shall have the authority to purchase, build, exchange, or otherwise acquire sell or otherwise dispose of sites and buildings of the district. Such actic shall not be taken by the trustees without the approval of the qualified ele tors of the district at an election called for such approval unless:

(a) a bond issue has been authorized for the purpose of constructing, pu chasing, or acquiring the site or building;

(b) an additional levy under the provisions of 20-9-353 has been approve for the purpose of constructing, purchasing, or acquiring the site or building;

(c) the cost of constructing, purchasing, or acquiring the site or buildin is financed without exceeding the maximum-general-fund-budget-without-a vote amount prescribed in 20-9-316 through 20-9-321 and, in the case of site purchase, the site has been approved under the provisions of 20-6-62 or

(d) moneys are otherwise available under the provisions of this title an the ballot for the site approval for such building incorporated a descriptio of the building to be located on the site.

(2) When an election is conducted under the provisions of this section, i shall be called under the provisions of 20-20-201 and shall be conducted ir the manner prescribed by this title for school elections. An elector qualifiec to vote under the provisions of 20-20-301 shall be permitted to vote in such election. If a majority of those electors voting at the election approve the proposed action, the trustees may take the proposed action.

History: En. 75-8204 by Sec. 476, Ch. 5, L. 1971; R.C.M. 1947, 75-8204.

20-6-621. Selection of school sites, approval election, and lease of state lands. (1) The trustees of any district shall have the authority to select the sites for school buildings or for other school purposes, but such selection shall first be approved by the qualified electors of the district before any contract for the purchase of such site is entered into by the trustees, except the trustees shall have the authority to purchase or otherwise acquire property contiguous to an existing site that is in use for school purposes without a site approval election. Furthermore, the trustees may take an option on a site prior to the site approval election.

(2) The election for the approval of a site shall be called under the provisions of 20-20-201 and shall be conducted in the manner prescribed by this title for school elections. An elector who may vote at a school site election shall be qualified to vote under the provisions of 20-20-301. If a majority of those voting at the election approve the site selection, the trustees shall have the authority to purchase such sites. A site approval election shall not be required when the site was specifically identified in an election at which an additional levy or the issuance of bonds was approved for the purchase of such site.

(3) Any site for a school building or other building of the district that is selected or purchased by the trustees shall:

(a) be in a place that is convenient, accessible, and suitable;

(b) comply with the minimum size and other requirements prescribed by the department of health and environmental sciences of the state of Montana; and

(c) comply with the statewide building regulations, if any, promulgated by the department of administration.

(4) The board of land commissioners shall have the authority to sell, at the appraised value, or to lease for any period of time less than 99 years, at an amount of $1 per year, to a

BRENDA SCHYE, representing Montana Arts Advocacy, spoke in support of the bill (EXHIBIT #2).

There were no further proponents and NO OPPONENTS to the bill.

DISCUSSION: SENATOR REGAN asked if the Montana law concerning abandoned property applied to this area.

DR. ARCHIBALD replied the Attorney General's opinion stated the abandoned property statutes do not apply to this area.

SENATOR REGAN expressed concern that this bill be consistent with the provisions in the current abandoned property statutes.

There being no further discussion, SENATOR FULLER closed by saying the bill may not anticipate every evenuality, however, it is a fair and reasonable way to address the problem.

CONSIDERATION OF SENATE BILL 117: SENATOR HIMSL, District 3, sponsor of the bill, presented his testimony to the committee (EXHIBIT #3).

PROPONENTS: KATHY FABIANO, Administrator, Accounting Division, Department of Administration, presented her testimony in support of the bill (EXHIBIT #4).

BILL ANDERSON, Office of Public Instruction, presented his testimony in support of the bill (EXHIBIT #5).

There were no further proponents and NO OPPONENTS to the bill.

Senator Himsl closed.

ACTION ON SENATE BILL 117: SENATOR McCALLUM MOVED SENATE BILL 117 DO PASS. The motion carried unanimously.

ACTION ON SENATE BILL 84: Chip Erdman, Montana School Boards Association, Rick Bartos, Office of Public Instruction Attorney, and Lee Heiman, Committee Counsel, all agreed the bill needed no amendment.

SENATOR REGAN MOVED SENATE BILL 84 DO PASS. The motion carried unanimously.

ACTION ON SENATE BILL 109: Senator Regan asked the Chairman to appoint a sub-committee to ensure SB 109 provisions are compatible with current abandoned property statutes.

STANDING COMMITTEE REPORT

January 21, 19 85

MR. PRESIDENT

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE BILL No. 34

first reading copy (white color)

ALLOWING SCHOOL DISTRICTS TO ACQUIRE PROPERTY BY LEASE-PURCHASE AGREEMENT

Respectfully report as follows: That SENATE BILL No. 34

DO PASS

~~DO NOT PASS~~

Senator Chet Blaylock Chairman.

or maintenance on these items is impossible at present because they are not the legal property of the museums in the State. He read to the committee a letter of resolution which supported this legislation and represented the feelings of 80 museums across Montana. (See Exhibit 3)

PROPONENTS: Brenda Schye spoke on behalf of the Montana Arts Advocacy which, she explained, is a broad cross-section of Montanans. She asked that the committee consider this bill favorably. (See written testimony,Exhibit 4)

Bill Anderson, Office of Public Instruction, relayed that his staff felt this is a good bill and supports it.

There being no further proponents or opponents, Chairman Harrington opened the floor to questions. Rep. Montayne asked Mr. Archibald if he could get back a gift given to a museum by a relative. Mr. Archibald said the donor would generally be required to sign a title transfer and it would assume the donor is the legal owner in the first place. The I.R.S. also requires that if the donation is claimed for tax purposes, there must be a title transfer. Rep. Mercer questioned whether this would apply to items already in the museums and Mr. Archibald said it would apply only to loaned material. If the heirs cannot be located by certified mail, a public notice would be placed in the newspaper for three weeks. Rep. Mercer asked what would be the ramifications of failure to notify the museum of an address change, as in Section 7 of the bill. It was clarified that after seven years and attempts to contact the owners, the museum takes ownership of the property. There ensued discussion regarding the signing of a loan agreement, presenting that loan agreement or proof of ownership when an object on loan is released to another party, and the need for the museum to know that they are giving the item back to the rightful owner. The provisions of the statute are made known to the lender at the time the loan agreement is signed. Rep. Peck wondered what sort of documentation would be needed to ascertain that an item truly belonged to the person in the first place. Mr. Archibald said they have to be very careful and use their best judgement. It was pointed out to Rep. Eudaily that the change in the interest rate in the bill from 5% to 10% on Page 10, line 4 of the bill was a Senate amendment to reflect present realities.

Senator Fuller was present at this time to close the hearing on S.B. 109 by urging support of the bill.

CONSIDERATION OF S.B. 84: Senator Bob Brown, District #2, opened the hearing on this bill as its sponsor. He said this is a simple bill which fills a place in the law that somehow was not addressed. It allows schools to acquire property by

lease-purchase agreement, there is no statutory authorization which allows for it now. Districts are becoming more and more interested in new technical equipment and it becomes obsolete quickly and would be more advantageous at times to acquire it on a lease-purchase agreement.

PROPONENTS: Chip Erdmann, representing the Montana School Board Association, said the bill came out of their convention at Billings the prior year and prompted its introduction. It allows school districts to enter into these agreements for both personal and real property. There are safeguards built in for purchasing real property the same as buying land outright. It would have to go through the same voter requirements.

Don Waldron with the School Administrators of Montana spoke for the group in urging support of the bill. He cited the example of leasing copy machines and service for less money than they could buy just the service contract alone and, at the end of three years, they could pay a certain amount and keep the machine if they desire.

Ruthe Tigges, Elementary School Principals from Billings, asked support of the bill for reasons stated on written testimony. (See Exhibit 5)

Bill Anderson, representing the Office of Public Instruction, stood in support of the bill.

Eric Feaver with the Montana Education Association said they were delighted to support the bill.

There being no opponents, Chairman Harrington called for questions from the committee. Rep. Sands asked Mr. Anderson if the bill would require competitive bidding and Mr. Anderson answered that it would follow current law in that regard. Chip Erdmann also answered that in regard to real property, it still has to go through the bidding process and applies at the time the contract is signed. Mr. Erdmann answered Rep. Hannah's question that the school districts are doing it at present, but there is no authorization for it.

Senator Brown closed the hearing on the bill by saying he would like Rep. Nelson to carry this bill on the floor should the committee recommend that the bill be concurred in.

EXECUTIVE SESSION:

ACTION ON S.B. 106: Rep. Peck motioned that S.B. 106 BE CONCURRED IN. Rep. Glaser spoke to the proposed amendments saying that not only on Page 2, lines 9 and 10 should a "." be placed following "corporation", but also the same should

be added to lines 19 and 20 on Page 3. He explained the U.S. Tax Code (1371 & 1372) definition of corporations having 20% or more of its gross receipts, or $3,000, whichever is more, cannot be a Subsection "S" Corporation. The intent of the amendments should be to leave the wording at closely held or family coporations. It was generally agreed among committee members that if someone wished to know if they fit the categories of a closely held or family corporation definition, they should go to the legislative council attorney. Rep. Glaser believed a lot of people were excluded in this bill that Sen. Shaw intended to include. Rep. Hannah moved that action on S.B. 106 be passed for the day and the motion was unanimously approved.

ACTION ON S.B. 84: Rep. Williams moved that S.B. 84 BE CONCURRED IN. The motion was seconded by Rep. Kitselman and the motion carried by unanimous voice vote.

ACTION ON S.B. 109: Rep. Peck moved that S.B. 109 BE CONCURRED IN. Rep. Williams seconded the motion. Rep. Mercer moved to amend the bill in the following way:

1. Page 3, lines 14 through 16.
   Following: "property"
   Strike: remainder of line 14 through "property" on line 16

He explained that he felt it difficult to provide documentation on property ownership on these kinds of items. It was pointed out by Mr. Archibald that a Notice of Intent to retain interest is filed in response to a letter sent by the Society and with or without the statute the museum cannot return property unless they are provided with a receipt or documentation. In cases of potential heirs reclaiming property, they need a copy of the original loan receipt, a copy of the will, or other documents which state the interest the person may have in the property.

The question was called on the motion to amend S.B. 109 and it carried by voice vote with six opposing votes cast.

Rep. Hannah addressed the bill with his objection of cutting off the rights of the people and giving ownership over to the museum. He suggested that a bill be drafted so the museums have a right to preserve and maintain property placed in their care rather than giving ownership to them.

Mr. Archibald answered Rep. Eudaily's question of who establishes a reasonable market value as referred to on Page 10 of the bill by saying that it would have to be done by an appraiser, and he would assume it would not have to be done in court.

A voice vote was called on the motion that S.B. 109 BE CONCURRED IN AS AMENDED. The motion carried with Reps. Hannah, Glaser, and Brandewie opposing.

STANDING COMMITTEE REPORT

MARCH 8 19 85

MR. SPEAKER

We, your committee on EDUCATION & CULTURAL RESOURCES

having had under consideration SENATE Bill No. 94

THIRD reading copy (BLUE color)

ALLOWING SCHOOL DISTRICTS TO ACQUIRE PROPERTY BY LEASE-PURCHASE AGREEMENT

Respectfully report as follows: That SENATE Bill No. 94

BE CONCURRED IN

DO PASS

REP. DAN HARRINGTON, Chairman.

STATE PUB. CO.
Helena, Mont.

DAILY ROLL CALL

EDUCATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3-8-85

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington	✓		
Ralph Eudaily	✓		
Ray Brandewie	✓		
William Glaser	✓		
Joe Hammond	✓l		
Thom Hannah	l		
Raymond Harbin	l		
Roland Kennerly	✓		
Les Kitselman	✓		
John Mercer	✓		
John Montayne	✓		
Richard Nelson	✓		
Jerry Nisbet	✓		
Ray Peck	✓		
Jack Sands	✓		
Ted Schye	✓		
Fred Thomas	l		
Mel Williams	✓		

EXHIBIT 5
S.B. 84
3.8.85

MARCH 8, 1985

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE
CHAIRMAN HARRINGTON AND MEMBERS
STATE CAPITAL
HELENA, MONTANA

DEAR HONORABLE REPRESENTATIVES:

THANK YOU FOR THIS OPPORTUNITY TO SPEAK IN FAVOR OF SENATE BILL #84 WHICH WOULD ENABLE SCHOOL DISTRICTS TO UTILIZE LEASE/PURCHASE OPTIONS WHEN ACQUIRING PERSONAL AND REAL PROPERTY.

THE BILLINGS PUBLIC SCHOOLS SUPPORT THIS LEGISLATION FOR THE FOLLOWING REASONS:

1. THIS LEGISLATION WOULD ALLOW FOR MORE CONSISTENT BUDGETING PRACTICES BY AVOIDING PEAKS AND VALLEYS CAUSED BY THE NEED TO PURCHASE HIGH COST PROPERTY COMPONANTS. AN EXAMPLE OF THIS MIGHT BE A LARGE COMPUTER MAINFRAME AT A COST OF $300,000 IN WHICH PAYMENT MIGHT BE DISTRIBUTED OVER FIVE OR MORE YEARS RATHER THAN A SINGLE LARGE PAYMENT IN ONE FISCAL YEAR.

2. THIS LEGISLATION WOULD ENHANCE THE OPPORTUNITY FOR A SCHOOL DISTRICT TO PROVIDE PLANNED GROWTH AND DEVELOPMENT. BY HAVING THE OPTION TO INCLUDE LEASE/PURCHASE METHODS, A SCHOOL DISTRICT WILL HAVE A BETTER CHANCE TO ACQUIRE FUTURE SCHOOL SITES AHEAD OF CITY GROWTH. HERE AGAIN, THE COST WOULD NOT HAVE TO BE PAID OUT OF A SINGLE FISCAL YEAR, THUS AVOIDING INCONSISTENT BUDGETING PRACTICES.

ON BEHALF OF THE BILLINGS PUBLIC SCHOOLS, I URGE YOU TO SUPPORT SENATE BILL #84. DR. JOHN DEENEY, ASSISTANT SUPERINTENDENT FROM OUR SCHOOL DISTRICT AND I ARE WILLING TO RESPOND TO ANY QUESTIONS YOU MAY HAVE. THANK YOU FOR THIS OPPORTUITY TO ADDRESS YOUR COMMITTEE.

SINCERELY,

RUTH TIGGES, PRINCIPAL OF ARROWHEAD ELEMENTARY SCHOOL
BILLINGS PUBLIC SCHOOLS

VISITOR'S REGISTER

HOUSE EDUCATION COMMITTEE

SENATE

BILL 84 - ALLOWING SCHOOL DISTS. TO ACQUIRE PROPERTY BY LEASE-PURCHASE DATE March 8, 1985

SPONSOR Bob Brown

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
John Keene	2906 Bryan Billings	S.D. #2	✓	
Dan Finger	2916 Ivan Ave	School Dist #2	✓	
Bill Anderson	Helena	OPI	✓	
Don Waldron	Miles	S.A.M.	✓	
[illegible]	Helena			
Mark Hufman	Alberton MT	Alberton School	✓	
[illegible]	Alberton, Montana	Alberton School	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33